

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY COPENHAGEN PRIORITY

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COPENHAGEN PLS PASS TO ASSISTANT SECRETARY DIXY LEE RAY

FOLLOWING REPEAT STATE 86881 ACTION LONDON BONN BRUSSELS
PARIS ROME THE HAGUE OTTAWA TOKYO MADRID EC BRUSSELS
IAEA VIENNA HELSINKI 16 APRIL.

QUOTE

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HELSINKI, PASS DR. RAY

E.O. 11652: N/A

TAGS: TECH, UK

SUBJECT: U.S. EXPORT LICENSING POLICY

REFS: (A) EC BRUSSELS 3268; (B) PARIS 09256; (C) BONN
05975;(D) STATE 072180; (E) STATE 086464

1. SUMMARY: RECENT U.S. PRESS STORIES INDICATING THAT
USG HAD INSTITUTED "EMBARGO" ON THEISSUANCE OF EXPORT
LICENSES FOR REACTORS, SOURCE, AND SPECIALNUCLEAR
MATERIAL HAVE ELICITED CRITICAL COMMENT FROM SOME
EUROPEAN SOURCES, PARTICULARLYTHE EUROPEAN COMMUNITY
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AND THE FRG. THIS PRESS REPORTING HAS BEEN UNFORTUNATE

IN THAT THERE IS NOT, AND HAS NEVER BEEN, SUCH AN EMBARGO. AS EXPLAINED IN FURTHER DETAIL BELOW, THERE HAS BEEN SOME DELAY IN THE ISSUANCE OF SUCH LICENSES WHILE USG DEVELOPS NEW PROCEDURES WHICH ARE NECESSITATED BY DIVISION OF AEC INTO THE ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION (ERDA) AND THE NUCLEAR REGULATORY COMMISSION (NRC), BUT TO THE BEST OF OUR KNOWLEDGE THIS HAS TO DATE CAUSED NO REAL HARDSHIP FOR PROSPECTIVE CUSTOMERS. UNTIL THE NEW PROCEDURES HAVE BEEN DEVELOPED, THE NRC COMMISSIONERS ARE PREPARED TO REVIEW AND ACT UPON EXPORT LICENSE APPLICATIONS ON AS TIMELY A BASIS AS POSSIBLE. IT IS

RECOGNIZED THAT THIS CABLE REPEATS MUCH OF THE SUBSTANCE OF REFTEL E FOR EC BRUSSELS AND EC MEMBER STATES, BUT IT IS CONSIDERED DESIRABLE TO SUMMARIZE THE SITUATION FOR ALL HOST COUNTRIES WHICH IMPORT SIGNIFICANT QUANTITIES OF SOURCE AND SPECIAL NUCLEAR MATERIAL FROM THE U.S. IT IS SUGGESTED THAT POSTS, UNDER APPROPRIATE CIRCUMSTANCES, SEEK TO CLARIFY SITUATION FOR HOST GOVERNMENTS TO EXTENT THAT THEY HAVE NOT ALREADY DONE SO. END SUMMARY.

2. FOLLOWING INITIAL STORY ALLEGING NUCLEAR EXPORT LICENSE "EMBARGO" IN MARCH 27 ISSUE OF NEW YORK TIMES, NRC ISSUED PRESS RELEASE WHICH STATED THAT "PENDING THE COMPLETION OF THE PRESENTLY ACTIVE REVIEW OF THE REGULATIONS AND THE PROCEDURES WHICH SHOULD BE FOLLOWED BY NRC AND OTHER GOVERNMENT AGENCIES REGARDING THE LICENSING OF EXPORTS, THE COMMISSIONERS WILL REVIEW ALL EXPORT LICENSE APPLICATIONS INVOLVING REACTORS OR SIGNIFICANT QUANTITIES OF SOURCE OR SPECIAL NUCLEAR MATERIAL." (MEANING OF THIS STATEMENT WAS THAT COMMISSIONERS THEMSELVES NOT RPT NOT COMMISSION STAFF, WOULD MAKE DETERMINATION.) DESPITE THIS STATEMENT, THERE CONTINUED TO BE FEELING IN SOME QUARTERS ABROAD THAT USG NUCLEAR EXPORT LICENSING PROCESS WAS AT LEAST IN "SUSPENSION." THUS, ON APRIL 15, NRC ISSUED A SECOND PRESS RELEASE WHICH REITERATED FOREGOING STATEMENT AND ALSO INDICATED THAT, IN ADDITION TO WORKING TOWARD COMPLETING THE FOREGOING REVIEW, THE COMMISSIONERS WOULD IN THE INTERIM LIMITED OFFICIAL USE

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CONSIDER APPLICATIONS WHICH HAVE BEEN SUBMITTED ON AS TIMELY A BASIS AS POSSIBLE. NRC STATEMENT "CATEGORICALLY STATED THERE HAS BEEN NO BAN PLACED UPON SUCH SHIPMENTS." RELATED PRESS GUIDANCE IDENTIFIED FIVE CASES WHICH HAD BEEN SOMEWHAT DELAYED BUT CURRENTLY ARE IN THE NRC REVIEW PROCESS -- THREE WITHIN THE COMMUNITY, ONE IN JAPAN (TWO LICENSE APPLICATIONS) AND ONE IN SOUTH AFRICA.

3. THE MATTER OF THE REGULATIONS AND PROCEDURES TO BE FOLLOWED IS NOW UNDER REVIEW WITHIN THE USG AND IT IS EXPECTED THAT A CLARIFYING EXECUTIVE ORDER WILL BE ISSUED SHORTLY. ONCE THIS ORDER IS ISSUED, IT SHOULD MAKE IT UNNECESSARY FOR THE NRC COMMISSIONERS TO PERSONALLY REVIEW MOST EXPORT LICENSE APPLICATION PROCEDURES, WHICH WOULD BE EXPECTED TO REDUCE THE TIME NEEDED UNDER THE PRESENT INTERIM PROCEDURE.

4. THE REVIEW OF PROCEDURES, WHICH IS A CONSEQUENCE OF SPLITTING THE AEC INTO ERDA AND NRC, MAY HAVE DELAYED THE ISSUANCE OF SOME LICENSES. HOWEVER, TO THE BEST OF OUR KNOWLEDGE, SUCH DELAYS HAVE NOT TO DATE CAUSED ANY REAL HARDSHIPS TO CUSTOMERS ABROAD.

5. SOME GOVERNMENTS HAVE COMPLAINED THAT NRC ACTION REPRESENTS U.S. POLICY CHANGE ON DISTRIBUTION OF NUCLEAR MATERIALS WHICH SHOULD HAVE BEEN SUBJECT OF PRIOR CONSULTATIONS. IF THIS ISSUE IS RAISED, POSTS SHOULD STRESS THAT SINCE NRC ACTION DID NOT REPRESENT A BASIC CHANGE IN U.S. LICENSING POLICY BUT, RATHER, A PROCEDURAL CHANGE INVOLVING THE LEVEL WITHIN A USG AGENCY AT WHICH A PARTICULAR ACTION SHOULD BE APPROVED, NRC CONSIDERED THAT IT DID NOT INVOLVE MATTERS ON WHICH CONSULTATIONS WERE CALLED FOR.

6. IT SHOULD BE RECOGNIZED THAT EXPORT LICENSE APPLICATIONS NORMALLY ARE FILED SIX MONTHS OR MORE BEFORE THE EXPORT IS ACTUALLY ANTICIPATED AND THAT THE AVERAGE TIME FOR APPROVAL UNDER THE PRIOR AEC PROCEDURES HAD BEEN ABOUT SIX WEEKS TO TWO MONTHS. ONCE THE AFOREMENTIONED EXECUTIVE ORDER IS ISSUED, IT IS ANTICIPATED THAT LICENSE APPLICATIONS NORMALLY LIMITED OFFICIAL USE

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CAN BE PROCESSED WITHIN ABOUT TWO MONTHS, AS BEFORE. HOWEVER, IT SHOULD BE RECOGNIZED THAT APPLICATIONS INVOLVING UNUSUALLY SENSITIVE TRANSACTIONS (E.G., LARGE QUANTITIES OF HIGHLY ENRICHED URANIUM OR PLUTONIUM) MAY TAKE SUBSTANTIALLY LONGER. KISSINGER UNQUOTE

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